

Court of Appeals of Kentucky.

Halvin C. WOLFF, Appellant,

v.

LOUISVILLE WATER COMPANY, Inc., Appellee.

Feb. 8, 1957.

Rehearing Denied June 7, 1957.

Action by landowner seeking an order directing a water company to extend its water main to his property. The Circuit Court, Common Pleas Branch, Second Division, Jefferson County, Raymond C. Stephenson, Special Judge, granted summary judgment to water company and property owner appealed. The Court of Appeals, Waddill, C., held that where regulations for extension of water mains were reasonable, and agents of water company exercised reasonable discretion in refusing to extend main without payment of actual cost thereof, mandatory order directing company to extend its main was not issuable.

Judgment affirmed.

West Headnotes

[1] Waters and Water Courses 405 ⚙️194

405 Waters and Water Courses

405IX Public Water Supply

405IX(A) Domestic and Municipal Purposes

405k194 k. Mains, Pipes, and Appliances for Distribution. [Most Cited Cases](#)

Waters and Water Courses 405 ⚙️202

405 Waters and Water Courses

405IX Public Water Supply

405IX(A) Domestic and Municipal Purposes

405k202 k. Regulations of Supply and Use. [Most Cited Cases](#)

Waters and Water Courses 405 ⚙️203(10)

405 Waters and Water Courses

405IX Public Water Supply

405IX(A) Domestic and Municipal Purposes

405k203 Water Rents and Other Charges

405k203(10) k. Reasonableness of Charges. [Most Cited Cases](#)

Where a city is engaged in furnishing water to its inhabitants, Court of Appeals must give it governmental discretion concerning limits to which it is advisable to extend its water mains, and must also permit it to prescribe reasonable regulations and charges when water services are furnished.

[2] Waters and Water Courses 405 ⚙️194

405 Waters and Water Courses

405IX Public Water Supply

405IX(A) Domestic and Municipal Purposes

405k194 k. Mains, Pipes, and Appliances for Distribution. [Most Cited Cases](#)

In action by landowner seeking an order directing a water company to extend its water main to his property, where regulations for extension of water mains were reasonable, and agents of water company exercised reasonable discretion in refusing to extend main without payment of actual cost thereof, mandatory order directing company to extend its main was not issuable.

*104 Joseph M. Hayse, Louisville, for appellant.
Morris & Garlove, Charles W. Morris, Louisville, for appellee.

WADDILL, Commissioner.

Halvin C. Wolff filed complaint seeking an order from the Jefferson Circuit Court directing the Louisville Water Company to extend its water main to his property.

The company answered asserting that the complaint failed to state a claim upon which relief could be granted. The company also pleaded that it would extend the water main to Wolff's property upon the payment of the actual cost thereof. It further stated

that the regulations and practices of the company required its water users to pay the cost of the extensions of the water lines, but that a refund of this payment was provided for in the event the net revenue from the water user amounted to 15% of the adjusted cost of the line for twelve consecutive months.

The company moved for summary judgment, which was granted, after both parties had filed affidavits. We shall dispose of the appeal by deciding that the circuit court correctly determined that a mandatory order should not be issued in this case.

[1] This Court has previously held that the Louisville Water Company is an operating facility of the City of Louisville. [Rash v. Louisville & Jefferson County Met. Sewer District](#), 309 Ky. 442, 217 S.W.2d 232. Since the City of Louisville is engaged in furnishing water to its inhabitants we must give it a governmental discretion concerning the limits to which it is advisable to extend its water mains and must also permit it to prescribe reasonable regulations and charges when water services are furnished. See, [Middletown Water District v. Tucker](#), Ky., 284 S.W.2d 666; [Fuhring v. Louisville Water Co.](#), 10 Ky.Op. 197; also, [City of Greenwood v. Provine](#), 143 Miss. 42, 108 So. 284, 45 A.L.R. 824; *105 [Rose v. Plymouth Town](#), Utah, 173 P.2d 285; 56 Am.Jur., Waterworks, Sections 60, 61, pages 946, 967.

[2] Inasmuch as it appears that the regulations are reasonable, and that the agents of the city, who are charged with the operation of the Louisville Water Company, have exercised a reasonable discretion in this matter, we hold that the circuit court correctly adjudicated the case.

Judgment affirmed.

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Wolff v. Louisville Water Co.

19 P.U.R.3d 207, 302 S.W.2d 104

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